

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 14407US02)**

In the Application of:

Ronald L. Mahany, et al.

Serial No.: 10/692,959

Filed: October 24, 2003

For: WIRELESS PERSONAL LOCAL
AREA NETWORK

Examiner: P. B. Nguyen

Group Art Unit: 2464

Conf. No.: 1865

Electronically Filed on August 17, 2010.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop: AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the Office Action mailed on May 17, 2010. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS

In the Office Action of May 17, 2010, claims 10, 12-13, 18, 20-21, 27-28, 31, 33-34, 37-41, 45-49 and 51 were objected to because of informalities. The Examiner asserts that “operable to” is not a positive claim recitation and suggests that everything that comes after it is merely optional. Applicant disagrees and asserts that “operable to” effects a positive claim limitation. The Examiner seems to suggest that a claim recitation is only positive if it recites that the claim element performs its associated function *at all times*. Applicant disagrees and asserts that it is sufficient that the element is operable to perform its associated function. Applicant requests withdrawal of the objection.

Claims 10, 12-16, 18, 20-24, 26-30, 32-36, 38-43 and 45-49 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,058,199 (“Grube”). Regarding claim 10, the Examiner asserts that the transceiver of claim 10 is taught by a “repeater having transmitters 117 & 217 and 118 & 218,” referring to Figures 1 and 2 of Grube. The Examiner asserts that the “repeater having transmitters 117 & 217 and 118 & 218” communicates with two different networks, asserting that the radio link device 500 constitutes the “main communication network” of claim 10 and the field units 101-104, 201-204 constitute the “radio network” of claim 10. Applicant submits that the repeaters 111-116, transmitter 117 and receiver 118 of Grube communicate with devices in just one cell, namely cell 1. The repeaters 111-116, transmitter 117 and receiver 118 do not communicate with devices in cell 2, as can be clearly seen in Figures 1 and 2. Similarly, the repeaters 211-216, transmitter 217 and receiver 218 communicate with devices in just one cell, namely cell 2. The repeaters 211-216, transmitter 217 and receiver 218 do not communicate with devices in cell 1, as can be clearly seen in Figures 1 and 2. The radio link device 500 is not a network at all but merely a device. The radio link device 500 is a link device that can communicate with control resource transmitters/receivers 117/118, 217/218 in either cell 1 or cell 2. Furthermore, a cellular network comprises multiple cells. Adjacent cells in a cellular network, such as cell 1 and cell 2 of Figures 1 and 2, form part of a single cellular network and do not constitute separate networks.

Furthermore, the Examiner supports her assertion that the “repeater having transmitters 117 & 217 and 118 & 218” of Grube “participate(s) as a master device on the radio network, operable to control communications on the radio network,” per claim 10, by saying that the “repeater having transmitters 117 & 217 and 118 & 218” communicates with other field units. Applicant asserts that the fact that the repeaters 111-116, transmitter 117 and receiver 118 communicate with field units 101-104 in no way makes the repeaters 111-116, transmitter 117 and receiver 118 a master device operable to control communications on the radio network.

For at least the above reasons, Applicant submits that claim 10 is not anticipated by Grube. Applicant therefore submits that claim 10 and claims 12-17 depending therefrom, are allowable over the cited art.

Independent claims 18, 27, 28, 33, 34, 37, 38, 46, 47, and 51 contain limitations similar to limitations contained in claim 10 and were rejected under similar grounds. Applicant submits that claims 18, 27, 28, 33, 34, 37, 38, 46, 47, and 51, and all claims depending thereon, are allowable for the reasons set forth above with respect to claims 10 and 12-17.

In view of the foregoing, Applicant respectfully requests allowance of claims 10, 12-18, 20-43 and 45-51.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: August 17, 2010

MCANDREWS, HELD & MALLOY, LTD.

/John A. Wiberg/

John A. Wiberg
Reg. No. 44,401
Attorney for Applicant

McAndrews, Held & Malloy, Ltd.
500 West Madison Street
34th Floor
Chicago, IL 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100